

ROYAL COMMISSION

ON  
ATLANTIC ACCEPTANCE CORPORATION LIMITED

EXHIBIT No. ....

PER..... REGISTRAR..... DATE.....

EVIDENCE GATHERED FOR THE  
REPORT  
of  
THE ROYAL COMMISSION  
APPOINTED TO INQUIRE INTO  
THE FAILURE  
of  
ATLANTIC ACCEPTANCE CORPORATION  
LIMITED

EXAMINATION FOR DISCOVERY OF JACK TRAMIEL

Date of interview: November 8, 1965

Exhibit Number: 4162

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ROYAL COMMISSION

ATLANTIC ACCEPTANCE CORPORATION LIMITED

EXHIBIT No. 4162

PER *dh* 2.3.67  
REGISTRAR DATE

IN THE MATTER OF THE BANKRUPTCY OF ASSOCIATED CANADIAN  
HOLDINGS LIMITED of the City of Toronto, in the County  
of York, Province of Ontario.

EXAMINATION FOR DISCOVERY of JACK TRAMIEL  
dated the 8th day of NOVEMBER, 1965



ONTARIO

In The **SUPREME** Court Of **ONTARIO**

**BETWEEN:**

**IN THE MATTER OF THE BANKRUPTCY OF  
ASSOCIATED CANADIAN HOLDINGS LIMITED  
of the City of Toronto, in the ~~plaintiff~~  
County of York, Province of Ontario.**

~~AND~~

~~Defendant~~

**EXAMINATION OF**

**JACK TRAMIEL**

- FOR DISCOVERY**
- ON AFFIDAVIT**
- AS JUDGMENT DEBTOR**
- DE BENE ESSE**

**TAKEN** **November 8th, 19 65.**

Royal Commission on the Atlantic - 454 University Ave.

JP:sp

1 IN THE SUPREME COURT OF ONTARIO

2  
3 IN THE MATTER OF THE BANKRUPTCY OF ASSOC-  
4 IATED CANADIAN HOLDINGS LIMITED of the City  
5 of Toronto, in the County of York, Province  
6 of Ontario  
7  
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10

11 This is the examination of JACK TRAMIEL,  
12 under Section 121 of the Bankruptcy Act, for discovery  
13 in this action, taken in shorthand before Peter W. McHugh,  
14 C.S.R., Special Examiner, at his Chambers Suite 802 the  
15 Victory Building, 80 Richmond Street West, Toronto,  
16 Ontario, on the 8th day of November, 1965.  
17  
18

19 APPEARANCES:

20 D.E. BAIRD, ESQ., for the Trustee,  
21 J. POMERANT, ESQ., for the Witness.  
22  
23  
24 - - -  
25  
26  
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JACK TRAMIEL, sworn.

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BY MR. BAIRD:

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1 Q. Mr. Tramiel, what was your position  
2 with Associated Canadian Holdings Limited?

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MR. POMERANT: Mr. Tramiel, pursuant to  
Section 5 of the Canada Evidence Act and Section  
9 of the Ontario Evidence Act objects to answer  
this question on the ground his answer may tend  
to criminate him or may tend to establish his  
liability to a Civil proceeding at the instance  
of the Crown or of any person or to a prosecution  
under any Act of the Provincial Legislature.

Mr. Tramiel therefore claims protection

of Section 5 of the Canada Evidence Act and  
Section 9 of the Ontario Evidence Act and any  
other relevant Evidence Acts of any province in  
Canada. So as not to interfere with the  
examination of Mr. Tramiel, and because all  
the questions at this examination would require  
answers by Mr. Tramiel that may criminate him  
or may tend to establish his liability to a  
Civil proceeding at the instance of the Crown  
or of any person, or to a prosecution under any  
Act of the Provincial Legislature, may it be  
accepted and admitted that Mr. Tramiel objects

1 and is deemed to have objected to answer every  
2 question at this examination on the grounds that  
3 his answers may tend to criminate him or may  
4 tend to establish his liability to a Civil  
5 proceeding at the instance of the Crown or of  
6 any person, or to a prosecution under any Act  
7 of the Legislature and that Mr. Tramiel has and  
8 is deemed to have claimed the protection of  
9 Section 5 of the Canada Evidence Act, Section  
10 9 of the Ontario Evidence Act and any other  
11 relevant section of any other Provincial Evidence  
12 Act for every answer given to every question  
13 asked at this examination.

14 Do you so admit all the foregoing to  
15 be and to have been done.

16 MR. BAIRD: Yes.

18 BY MR. BAIRD:

19 2 Q. I will repeat my question, Mr. Tramiel.  
20 What was your position with Associated Canadian  
21 Holdings Limited?

22 A. I was President of the company.

23 3 Q. Were you also a director of the company?

24 A. Yes.

25 4 Q. When did you become President of  
26 Associated Canadian Holdings Limited?

27 A. I don't remember the exact date.

28 5 Q. The minute book of the company indicates  
29 that you became an officer and director of

4 A. Was that the time the company was  
incorporated?

6 Q. Yes. Would that be correct?

A. I believe so.

7 Q. When did you resign as President and  
8 director of Associated Canadian Holdings Limited?

10 A. When the company was turned over to the  
Clarkson Company.

8 Q. The minute book indicates that you  
12 resigned as President and as a director of  
13 Associated Canadian Holdings Limited on July  
14 19th, 1965. Would that be correct?

A. Yes.

9 Q. How many shares did you own of  
17 Associated Canadian Holdings Limited, and what  
18 were the nature of those shares?

20 A. I cannot give you the exact amount.  
It was preferred and common.

10 Q. According to the minute book, it  
22 appears that one common share of the capital  
23 stock of the company was transferred from  
24 Morton R. Goldhar to Jack Tramiel on June 27th,  
25 1963. Mr. Morton R. Goldhar was one of the  
26 original applicants for the incorporation of  
27 the company. Would that be correct?

A. I wouldn't know.

11 Q. Would you please examine the minutes

1 to confirm this?

2 A. I can only confirm what is in the  
3 minutes but I couldn't think who the original  
4 ones were.

5 12 Q. Did you receive one share from one of  
6 the original shareholders?

7 A. I don't remember it. I think I  
8 received - was an exchange of shares of Commodore  
9 Business Machines I have put in for an exchange  
10 of Associated shares.

11 13 Q. Subsequently, the minute books of the  
12 company indicate that on February 13th, 1964  
13 there was a meeting of the Board of Directors of  
14 Associated Canadian Holdings Limited and at that  
15 time a motion was resolved or motion was made  
16 that certain shareholders and others subscribe  
17 for common and preference shares of the company  
18 and in consideration therefor, transfer to the  
19 company fully paid and non-assessable common  
20 shares of the capital stock of Commodore Business  
21 Machines (Canada) Limited. I am paraphrasing the  
22 effect of the motion. Is that your understanding?

23 A. Yes.

24 14 Q. The minute book indicates that the  
25 common shares were valued at \$1.00 and the  
26 preference shares at a par value of \$5.00 each.  
27 The minute book also indicates the common  
28 shares of Commodore Business Machines (Canada)  
29 Limited were valued, for the purpose of this

1 transaction, at \$3.50 each and that one common  
2 share of Associated Canadian Holdings Limited,  
3 and one-half a preference share of Associated  
4 Canadian Holdings Limited was to be issued for  
5 the transfer to Associated Canadian Holdings  
6 Limited of one common share of Commodore Business  
7 Machines (Canada) Limited. Is that correct?  
8

9 A. This is the way it was explained to me,  
10 yes.

11 Q. The minutes indicate that as a result  
12 of this transaction, there was 151,800 preference  
13 shares allotted and 315,600 common shares were  
14 issued and allotted. Would you confirm this is  
15 your understanding?

16 A. My understanding is one common share  
17 and one-half of one preferred share which was  
18 to be exchanged for one Commodore share.

19 Q. The minute book indicates this trans-  
20 action was entered into between Associated  
21 Canadian Holdings Limited and the following  
22 persons -- Manfred Kapp, Estelle Kapp, Jack  
23 Tramiel, Helen Tramiel, Benjamin Silberman,  
24 Regina Silberman, C. Powell Morgan, Mildred  
25 Morgan, and Harry Wagman. Is that correct?

26 A. Yes.

27 Q. Are they the parties that exchanged  
28 shares of Commodore Business Machines for shares  
29 of Associated Canadian Holdings Limited?

30 A. I believe this is right. That is what

1 I see in the minute book.

2 18 Q. Are there any other persons, to your  
3 knowledge, who subscribed for shares of Associated  
4 Canadian Holdings Limited?

5 MR. POMERANT: At this time, or at any  
6 time?

7 8 BY MR. BAIRD:

9 19 Q. At any time?

10 A. I wouldn't know.

11 20 Q. Mr. Tramiel, the minutes indicate that  
12 you received, or that Jack Tramiel was issued  
13 43,679 preference shares, and 87,357 common  
14 shares of Associated Canadian Holdings Limited.  
15 Is that correct?

16 A. Again I see in the minute book. I  
17 have the shares. The exact amount I don't remember  
18 off hand except what I see here.

19 21 Q. Mr. Tramiel, I would like to enter as  
20 Exhibit 1 to this examination what appears to  
21 be a receipt issued to Messrs. Solomon & Singer  
22 dated May 27th, 1964 signed by Manfred Kapp, and  
23 Jack Tramiel. Did you sign this receipt?

24 A. I did.

25 22 Q. This receipt indicates that you received  
26 common share certificate number 11 which was  
27 registered in name of Jack Tramiel effecting  
28 87, 357 shares. Is that correct?

29 A. Yes, 87,357.

1  
23 Q. The receipt also indicates that share  
2 certificate number 12 was received by Helen  
3 Tramiel covering 11,700 shares. Those were  
4 common shares. Is that correct?

5 A. I am repeating again, I can only say  
6 what is on this piece of paper. Whether it is  
7 correct or not----

8 24 Q. Did you receive those shares?

9 A. I am not sure if I received them or  
10 not. I had some shares but the total amount I  
11 don't know. I have signed for them. You have  
12 a signature here, yes.

13 25 Q. Is Helen Tramiel your wife?

14 A. Yes.

15 26 Q. The receipt also indicates that you  
16 and Mr. Kapp received share certificate number  
17 13 registered in the name of Benjamin Silberman  
18 for 11,700 common shares. Did you receive that  
19 certificate?

20 A. I would say what I said before. I  
21 signed it and it seems I have received it.

22 27 Q. Did you deliver any certificate to  
23 Mr. Silberman?

24 A. Yes.

25 28 Q. Covering common shares of Associated  
26 Canadian Holdings Limited?

27 A. Yes.

28 29 Q. Is Mr. Silberman related to you?

30 A. Yes.

1 30 Q. What is the relationship?  
2 A. He is my step-father.  
3 31 Q. The receipt indicates that you and  
4 Mr. Kapp received certificate number 14 and  
5 the name of the registered shareholder is  
6 Regina Silberman. The number of shares was  
7 16,650. Did you deliver share certificate to  
8 Regina Silberman?  
9 A. Yes.  
10 32 Q. Covering shares of Associated Canadian  
11 Holdings Limited?  
12 A. Yes.  
13 33 Q. Did you deliver to her share certificate  
14 number 14?  
15 A. Yes, I put her name on, yes.  
16 34 Q. I presume Regina Silberman is also  
17 related to you?  
18 A. Yes, she is.  
19 35 Q. Is she your step-mother?  
20 A. No, she is my mother.  
21  
22 ----EXHIBIT NO. 1: Receipt issued to Messrs. Solomon &  
23 Singer dated May 27 1964 signed by  
24 Manfred Kapp and Jack Tramiel.  
25  
26 BY MR. BAIRD:  
27 36 Q. Now, I would like to deal with the  
28 preference share certificates. This receipt  
29 indicates that you and Mr. Kapp received  
30 preference share certificate number 3 covering

1                   43,679 preference shares of Associated Canadian  
2                   Holdings Limited. Is that correct?

3                   A.         The numbers, I would like to say again,  
4                   we received the shares. The amounts what I have  
5                   signed for it must be this amount.

6                   37         Q.         The receipt also indicates share  
7                   certificate number 4 in the name of Helen Tramiel  
8                   in the amount of 5,850 preferred shares was  
9                   received by you and Mr. Kapp. Is that correct?

10                  A.         Yes.

11                  38         Q.         There were two further share certificates  
12                  numbers 5 and 6 in the name of Benjamin Silberman  
13                  and Regina Silberman for 4,050, and 8,325 preferred  
14                  shares respectively. Did you also receive those  
15                  share certificates and deliver them to Benjamin  
16                  Silberman and Regina Silberman?

17                  A.         Correct.

18                  39         Q.         Mr. Tramiel, in order to be entitled  
19                  to receive the preference shares and common  
20                  shares referred to previously, it would appear  
21                  you would be required to deliver to Associated  
22                  Canadian Holdings Limited 87,357 common shares  
23                  of Commodore Business Machines. Did you do this?

24                  A.         I don't believe that I turned them over  
25                  personally because those shares were in trust  
26                  with Mr. Morgan.

27                  40         Q.         What do you mean by shares were in  
28                  trust with Mr. Morgan?

29                  A.         Just what I said.

1 41 Q. I don't understand what you mean by  
2 being in trust with Mr. Morgan.

3 MR. POMERANT: He means that they were  
4 held by Mr. Morgan.

5  
6 BY MR. BAIRD:

7 42 Q. Why were they held by Mr. Morgan?

8 Excuse me, is what your counsel says correct?

9 A. Yes.

10 43 Q. Why were they held by Mr. Morgan?

11 A. The shares, the Commodore shares from  
12 the first day were held by Mr. Morgan for  
13 security on loans which Atlantic Acceptance  
14 has made to Commodore Business Machines.

15 MR. POMERANT: By Atlantic Acceptance,  
16 does that mean, Mr. Tramiel, Atlantic Acceptance  
17 personally, or Atlantic Acceptance and any of  
18 its subsidiaries?

19 THE DEPONENT: Atlantic Acceptance and  
20 any of its subsidiaries.

21  
22 BY MR. BAIRD:

23 44 Q. As of February 13th, 1964, the date  
24 of the minutes, Atlantic Acceptance Corporation  
25 Limited, or any of its subsidiaries, held all  
26 the shares you owned in Commodore Business  
27 Machines as security for loans. Is that correct?

28 A. I don't believe it was Atlantic  
29 Acceptance. I believe it was Mr. Morgan

1 personally as Trustee.

2 45 Q. Mr. Morgan held 87,357 shares of

3 Commodore?

4 A. As Trustee, I believe.

5 46 Q. Who was he Trustee for?

6 A. The legal part of it I couldn't give

7 you. I don't know.

8 47 Q. Did he hold those shares?

9 A. Because he was lending money from his

10 company.

11 48 Q. Did you agree he would hold the shares?

12 A. Yes.

13 49 Q. Did Helen Tramiel deliver to the

14 company 11,700 shares of Commodore Business

15 Machines?

16 A. No, she did not. All the shares what

17 I have signed for, the list what you have, all

18 those shares were held by Mr. Morgan.

19 50 Q. You are referring to Exhibit Number 1.

20 You are referring to the shares in the names

21 of Manfred Kapp, Estelle Kapp, Jack Tramiel,

22 Helen Tramiel, Benjamin Silberman, and Regina

23 Silberman?

24 A. Correct, there was only one comment,

25 I would like to say again, that 3,000 common

26 shares were given to Mr. Kapp which he did

27 not exchange for Associated shares. This is

28 what I remember. If it is so or not, I am not

29 sure.

30

1        ----Off the record discussion.  
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MR. POMERANT: While you have told us that the shares that you had in Commodore were held by Mr. Morgan in trust, did Mr. Morgan give his consent for the shares to be used in order to satisfy the requirements of the Associated Canadian Holdings Limited, the exchange of Commodore shares for Associated Canadian Holdings Limited shares?

THE DEPONENT: I believe that he had to give something to Mr. Wagman, or Mr. Solomon, to the lawyers before division of Associated Canadian shares.

MR. POMERANT: So, in other words, while he held those shares in trust, so far as you are concerned, it was perfectly proper to give those shares in the Associated Canadian Holding Limited exchange of Commodore shares for Associated Canadian Holding shares.

THE DEPONENT: Yes, because shares were going into the company.

BY MR. BAIRD:

51. Q.        The common share certificate book of Associated Canadian Holdings Limited indicate certificate number 16 for 15,000 shares was issued to Mildred Morgan on February 13th, 1964 from the Treasury. Is this correct?

1 A. I can only say what I saw in the  
2 minute book. I did not issue them and between  
3 the accountants and the lawyers, they made sure,  
4 I would like to say again, everything was done  
5 properly.

6 52 Q. Did you understand Mildred Morgan was  
7 entitled to receive 15,000 common shares of  
8 Associated Canadian Holdings Limited?

9 A. I was.

10 53 Q. The common share certificate book  
11 also indicates that share certificate 19 for  
12 52,237 shares were issued to C. Powell Morgan  
13 on February 13th, 1964. Do you know whether this  
14 share certificate was issued to Mr. Morgan in  
15 fact?

16 A. I have seen the certificate, I would  
17 like to say again, and I know he received the  
18 certificate. Just to make sure, as I said  
19 before, Mildred Morgan --- I know all the  
20 Associated Canadian shares were issued only  
21 against assets, against Commodore shares which  
22 they supposed to have delivered to the company.  
23 There was no shares given for anything else  
24 except Commodore shares.

25 54 Q. The common stock share certificate  
26 book indicates share certificate number 20 for  
27 28,500 shares was issued to Harry Wagman on  
28 February 13th, 1964. Was Mr. Wagman entitled  
29 to receive 28,500 shares of Associated Canadian

1 Holdings Limited?

2 A. Again, the same thing against delivering  
3 common shares of Commodore Business Machines.

4 55 Q. Who was responsible to make sure that  
5 each of the shareholders delivered to Associated  
6 Canadian Holdings Limited accurate shares of  
7 Commodore Business Machines?

8 A. Repeating again all those shares were  
9 held in trust with Mr. Morgan. Mr. Wagman was  
10 the accountant and Mr. Morgan was supposed to  
11 turn them over, I believe, to Mr. Wagman.

12 56 Q. Who was responsible for issuing the  
13 shares of Associated Canadian Holdings Limited  
14 and seeing that before the shares were issued,  
15 that shares of Commodore Business Machines  
16 (Canada) Limited were to be transferred to  
17 Associated Canadian Holdings Limited?

18 A. I really couldn't answer that question  
19 because it wasn't me. I was only told by the  
20 accountant and by the legal people that they  
21 were delivered, that they have them and on this  
22 basis we issued the shares.

23 57 Q. It appears from this receipt Messrs.  
24 Solomon & Singer had delivered the shares to  
25 you?

26 A. Associated shares?

27 58 Q. Yes?

28 A. Yes.

29 59 Q. Did you understand they had authority

1 to deliver the shares of Associated Canadian  
2 Holdings to the other shareholders as well?

3 A. Yes.

4 60 Q. The preference share certificate book  
5 of Associated Canadian Holdings Limited indicates  
6 that preferred stock certificate number 11 for  
7 26,118 shares were issued to J. Powell Morgan  
8 on February 13th, 1964. Do you know whether this  
9 share certificate was in fact issued?

10 A. I know it was issued. I would like to  
11 say again, I am pretty sure it was delivered.  
12 It was delivered at the same time, I believe.  
13 It was prepared for delivery at the same time our  
14 shares were received.

15 61 Q. The preferred share book indicates  
16 that share certificate 12 for 14,250 shares was  
17 issued to Harry Wagman on February 13th, 1964.  
18 Are you aware whether or not in fact this  
19 certificate was issued to Mr. Wagman?

20 A. It was issued to Mr. Wagman but whether  
21 it was delivered to Mr. Wagman, I couldn't answer  
22 you. I know I have signed those certificates.

23 62 Q. I would also like to refer you to the  
24 fact that the preferred share certificate book  
25 indicates certificate number 8 for 7,500 shares  
26 was issued to Mildred Morgan on February 13th,  
27 1964. Do you know whether in fact this share  
28 certificate was issued and delivered?

29 A. I know it was issued. I am not sure

whether it was delivered.

63 Q. Mr. Tramiel, the financial statement of  
3 Associated Canadian Holdings Limited for the  
4 year ending June 30th, 1964, prepared by Messrs.  
5 Wagman, Fruitman and Lando, Exhibit Number 2  
6 to this examination, has a note to the financial  
7 statement under number 1 -- the company has  
8 entered into an agreement dated July 1st, 1963  
9 whereby an option was granted to purchase 215,600  
10 shares of Commodore Business Machines at \$3.50  
11 per share, the said option to expire June 30th,  
12 1965. The company's security portfolio includes  
13 those shares valued at \$3.50. What was the nature  
14 of this agreement?

A. I don't know anything about it.

64 Q. Mr. Tramiel, did you sign the financial  
17 statement on page -- it is not numbered -- on  
18 the second page where it says approved on behalf  
19 of the Board of Directors, and the director  
20 appears to be signed by Jack Tramiel, Manfred  
21 Kapp?

23 A. I signed that but I did not sign this particular thing and this is the last page.

65 Q. Was that last page attached to the  
25 financial statement when it was signed by you?

27           A.        If it would, I would have told you I  
28           know about it. That is the reason I say I don't  
          know anything about it.

66 Q. There is a notation beside your

signature showing -- the accompany note and report dated November 11th, 1964 are an integral part of this financial statement. Were those notes attached to the financial statement when you signed it?

6 A. I don't think it was. If you can  
7 show me the option agreement, maybe I will  
8 remember it.

9 67 Q. We have not been able to find the  
10 agreement referred to and I am asking whether  
11 there is such an agreement in existence?

12 A. I don't know of any as far as signing it  
13 is concerned. Maybe there is but I did not  
14 sign it but there is many things in this company,  
15 I would like to say again, which were done that  
16 I did not know about either.

68 Q. Are you telling me Messrs. Wagman,  
18 Fruitman and Lando made a false statement in  
19 the financial statement when they state there  
20 was an agreement dated July 1st, 1963 in existence?

A. I am not---

22 MR. POMERANTZ: Just a moment, Mr.  
23 Tramiel. I don't think Mr. Tramiel ought to be  
24 answering a question like that.

26 MR. BAIRD: I am asking whether this  
note in the financial statement is true.

28 MR. POMERANT: I think he answered.  
29 He said to the best of his knowledge he know  
of no agreement. Why should he have to pass

1 comment on whether Wagman Fruitman and Lando  
2 are fraudulent auditors or whether in fact he  
3 was not aware of something that may have  
4 occurred.

5 MR. BAIRD: I am asking him in fact  
6 whether this statement in the financial  
7 statement is true. He was President of the  
8 company.

9 MR. POMERANT: He has told you he  
10 knows of no such agreement.

11  
12 BY MR. BAIRD:

13 69 Q. Do you know whether this statement is  
14 true, Mr. Tramiel?

15 A. I don't know of any such agreement,  
16 and I would like to say again that is all I  
17 can tell you.

18  
19 ----EXHIBIT NO. 2: Financial statement for the year  
20 ending June 30th, 1964.

21  
22 MR. POMERANT: I think Mr. Tramiel  
23 wishes to clarify the general position he had  
24 with regard to various agreements entered into  
25 by Associated Canadian Holdings Limited and other  
26 people. He has produced a clipping from the  
27 Globe and Mail which is dated Saturday, November  
28 6th edition of the Toronto Globe and Mail and  
29 in the clipping, which is headed "Clarkson seeks  
30

1 end of action on \$80,000.00 note." Mr. Tramiel  
2 wishes to say something about that.  
3

4 ----Off the record discussion.  
5

6 THE DEPONENT: I have read this  
7 article in the newspaper. I knew that the  
8 company had on its books a \$80,000.00 note  
9 which was never discussed with me and I only  
10 want to point out in this particular clipping  
11 from the newspaper, that you can see again  
12 that Mr. Morgan had acted in the behalf of  
13 Associated Canadian Holdings Limited without any  
14 approval from the Board, or anything like this,  
15 and this was not only pertaining to the \$80,000.00  
16 but on all other dealings too.  
17

18 BY MR. BAIRD:

19 70 Q. Mr. Tramiel, on examination, we have  
20 been advised by Mr. Lando, a partner of the  
21 accounting firm of Wagman Fruitman and Lando,  
22 that there was an agreement between all the  
23 shareholders of Associated Canadian Holdings  
24 Limited wherein they were given the right to  
25 purchase from Associated Canadian Holdings  
26 Limited certain common shares of Commodore  
27 Business Machines (Canada) Limited at a price  
28 of \$3.50 per share. He also advised us that  
29 this option was exercised in December 1964, and  
30

1 this is the significance of a memorandum on  
2 page number J15 of the general journal of  
3 Associated Canadian Holdings. Is that true?

4 A. I wouldn't know. The question what  
5 you told me that stockholders of Associated were  
6 allowed to buy shares of Commodore Business  
7 Machines at \$3.50?

8 71 Q. Yes, is that true?

9 A. At the present time I can't recollect  
10 this but again, may I know if the records here  
11 show who bought the shares?

12 72 Q. Mr. Lando states all the shareholders  
13 bought the shares at \$3.50 and this included you?

14 A. I would like to say if there is a  
15 receipt like that first one which you showed me,  
16 if they turned over shares, they should have a  
17 receipt for it.

18 73 Q. Mr. Lando has indicated you did not  
19 deliver to the company all the shares of  
20 Commodore Business Machines which you were  
21 required to deliver to them, to Associated  
22 Canadian Holdings?

23 A. First, where is the receipt of the  
24 shares I received that I bought of Commodore  
25 Business Machines?

26 74 Q. Mr. Lando has indicated you did not  
27 deliver to the company all the shares of  
28 Commodore Business Machines which you were  
29 required to deliver to them, to Associated

1 Canadian Holdings?

2 A. There were some, yes, an exchange of  
3 shares for Associated.

4 75 Q. Why were you required to deliver shares  
5 of Commodore Business Machines to Associated  
6 Canadian Holdings Limited?

7 A. I believe that I have made a loan  
8 for Associated Canadian Holdings Limited  
9 personally with the Mercantile Bank which  
10 the Associated Canadian Holdings Limited has  
11 given me shares to secure that loan.

12 76 Q. When was this loan made?

13 A. Some time in 1964.

14 77 Q. What was the amount of the loan?  
15 A. I am not sure of the exact date --  
16 \$50,000.00.

17 78 Q. In the accounts of Associated Canadian  
18 Holdings Limited there is an entry of August  
19 7th, 1964 showing a credit of \$49,880.00. This  
20 appears to be a loan made by the Mercantile  
21 Bank to Associated Canadian Holdings Limited?

22 A. This was made to me, Associated did  
23 not make the loan direct, this particular loan.

24 79 Q. To whom was the money paid?

25 A. To -- I believe the money was paid --  
26 I am not sure now whether it was paid to me,  
27 or directly to Associated. If it was paid to  
28 me, I have given a cheque to Associated Canadian  
29 Holdings Limited but I am not sure exactly how

1 it went but this could be checked out.

2 80 Q. Mr. Lando has indicated on December 31st,

3 1964 22,700 shares of Commodore Business Machines

4 were held by the Mercantile Bank of Canada?

5 A. Right, this was against the loan.

6 81 Q. Did you pledge those particular shares

7 for the loan by the Mercantile Bank of \$49,830.00?

8 A. Yes.

9 82 Q. It appears that on April 30th, 1965

10 the loan to the Mercantile Bank was repaid.

11 Is that correct?

12 A. I don't know the exact date but it was

13 repaid, yes.

14 83 Q. Did the Mercantile Bank of Canada return

15 to Associated Canadian Holdings Limited shares

16 you had pledge with them?

17 A. No, because the loan was not made directly

18 with Associated Canadian Holdings. It was done

19 through me so they were returned to me.

20 84 Q. Did you return those shares to

21 Associated Canadian Holdings Limited?

22 A. Not all of them.

23 85 Q. I would like to show you letter dated

24 April 14th, 1965 which appears to be written

25 by Associated Canadian Holdings Limited to

26 Mr. Jack Tramiel. I would enter this as Exhibit

27 3 to this examination. This letter indicates

28 that you still owe Associated Canadian Holdings

29 Limited 10,147 and 9/20ths shares of Commodore

1 Business Machines. Is that correct?  
2 A. I cannot give you the exact answer.  
3 I owe them some shares, at least the difference  
4 of the shares what I have delivered to them  
5 which were released from the bank and I would  
6 explain to you if you ask me the questions what  
7 happened to those shares too, but the exact  
8 number of shares I owe, I could not answer you.

9 86 Q. Is there any reason to believe the  
10 letter written by Associated Canadian Holdings  
11 on April 14th, 1965 is incorrect?

12 No.

18 THE DEPONENT: An accountant of  
19 the company.

21 MR. POMERANTZ: Did he have authority  
22 to write those letters to and on behalf of the  
company?

24 THE DEPONENT: I would like to say again, if he was an officer.

26 MR. POMERANT: How would he come to  
be writing officers too.

28 THE DEPONENT: Because he was taking  
care of the books of the company.

20 MR. POMERANT: He was the auditor of

1 the company?

2 A. Yes, right.

3  
4 BY MR. BAIRD:

5 87 Q. Was he alone the auditor of the company?

6 A. Again, I cannot answer you this question.  
7 I am not sure.

8 88 Q. Was he part of the firm?

9 A. Yes.

10 89 Q. What was the firm name?

11 A. Wagman, Fruitman, and what is the  
12 name?

13 90 Q. The financial statement, Exhibit Number  
14 2, gives the firm name as Wagman, Fruitman and  
15 Lando?

16 A. Yes, that is the reason I am not-- I  
17 have no doubt this must be correct but I am not  
18 sure until I check it. Those shares which Mr.  
19 Lando has written to me, those shares were left  
20 with the Mercantile Bank. Only part were taken  
21 out and when this, the June fiasco came out of  
22 Atlantic Acceptance, Associated had another man  
23 with Mercantile Bank. I am not sure what the  
24 exact sum but I believe at first for \$175,000.00.  
25 Mr. Wilson can direct me if I am right. At  
26 that time Mercantile Bank did not want to  
27 release to me any shares which I had. Those  
28 shares were sold, or being sold in favour of  
29 cleaning up this loan.

1     ---EXHIBIT NO. 3: Letter of April 1th, 1965 by  
2     Associated Canadian Holdings Limited  
3     to Mr. Tramiel.

4     BY MR. BAIRD:

5     91     Q.     Did the Mercantile Bank Canada release  
6     any shares to you after the loan was repaid in  
7     April 1965?

8     A.     Yes.

9     92     Q.     You turned those shares back to  
10     Associated Canadian Holdings Limited. Is that  
11     correct?

12     A.     Correct.

13     93     Q.     Now then, Associated Canadian Holdings  
14     Limited borrowed money from the Mercantile  
15     Bank?

16     A.     Correct.

17     94     Q.     And the Mercantile Bank---

18     A.     I don't know if it was then, or before.

19     95     Q.     Subsequently?

20     MR. POMERANT: He didn't say  
21     subsequently.

23     BY MR. BAIRD:

24     96     Q.     According to our books a subsequent  
25     loan was made on May 17th. You can check the  
26     books of account at Associated Canadian Holdings  
27     Limited?

28     A.     It was repaid.

29     97     Q.     And it was repaid as a result partially

30

1 as a result of selling shares of Commodore  
2 Business Machines?

3 A. I am saying when was the other one  
4 repaid?

5 98 Q. April.

6 A. It wasn't done at the same time?

7 99 Q. April 1965. On May 17, 1965 there  
8 was a new loan made?

9 A. Correct.

10 100 Q. And this loan was repaid by the  
11 Mercantile Bank selling shares of Commodore  
12 Business Machines?

13 A. Not the 175,000.

14 101 Q. But repaid in part, not in full, in  
15 that manner?

16  
17 ----Off the record discussion.

18  
19 MR. POMERANT: Mr. Tramiel, could you  
20 explain why the balance of the shares were not  
21 returned, and the nature of the Associated  
22 Canadian Holdings Limited loan?

23 THE DEPONENT: After June 14th, whatever  
24 shares were left with the Mercantile Bank were  
25 held against the guarantee which I and three  
26 other people, which had guaranteed the  
27 \$175,000.00 loan for Associated Canadian Holdings.

28 MR. POMERANT: Who were the other three  
29 people?

1 THE DEPONENT: Mr. Kapp, Mr. Wagman,  
2 and Mr. Morgan.  
3

4 BY MR. BAIRD:

5 102 Q. When Associated Canadian Holdings  
6 Limited or you repaid the loan in April 1965, why  
7 were the shares not released?

8 A. No particular reason. We just did not  
9 take them out. It would not make any difference  
10 where they are. They were the property of  
11 Associated Canadian Holdings Limited.

12 103 Q. I understand you to tell me that  
13 originally those shares belonged to Associated  
14 Canadian Holdings. Were they ever transferred  
15 into your name?

16 A. No. I believe they were transferred  
17 in the bank name.

18 104 Q. Were they ever held by the Mercantile  
19 Bank as security for a personal loan for you  
20 and not the loan of \$49,830.00 which you  
21 previously referred to?

22 A. All my personal loan was one. There  
23 was this \$50,000.00 which was another separate  
24 loan. I had other loans with the Mercantile  
25 Bank.

26 105 Q. Those shares were pledged for the  
27 entire, for your entire loan from the Mercantile  
28 Bank. Is that correct?

29 MR. POMERANTZ: No, I don't think he  
30

1 said that. Are you asking him a question?

2 MR. BAIRD: I am asking if this is  
3 correct. It is my understanding of his answer.  
4 He said he had a number of loans with the  
5 Mercantile Bank.

6 THE DEPONENT: Correct.

7  
8 BY MR. BAIRD:

9 106 Q. And those shares were given as  
10 security for those loans?

11 A. No. Those shares were given specific-  
12 ally for security for this loan.

13 MR. POMERANT: Which loan is this?

14 THE DEPONENT: \$50,000.00.

15 MR. POMERANT: Is that Associated  
16 Canadian Holdings' loan?

17 THE DEPONENT: Associated Canadian  
18 Holdings for seventy-two something shares and  
19 a certain number of those shares were released.

21 BY MR. BAIRD:

22 107 Q. When the \$50,000.00 loan as you refer  
23 to was repaid, did the Bank retain those  
24 shares as security for the balance of your  
25 personal loan to them?

26 A. No, they did not.

27 108 Q. We have received slips directed to  
28 Associated Canadian Holdings Limited from  
29 the Mercantile Bank of Canada indicating

30

1 they have sold for the account and risk of  
2 Associated Canadian Holdings 29,000 shares of  
3 Commodore Business Machines. From our  
4 calculations---

5 A. You have the list what was given to  
6 them. They have sold everything.

7 109 Q. Plus an additional 17,700 shares of  
8 Commodore Business Machines which they have  
9 also indicated they have sold for the account  
10 and risk of Associated Canadian Holdings  
11 Limited?

12 A. Plus the amount which was pledged to  
13 them?

110 Q. My question is what amount of shares  
15 of Associated Canadian Holdings Limited were  
16 pledged to the Mercantile Bank of Canada?

A. I am not sure.

111 Q. The records provided us by Barrett,  
19  
20 Goodfellow who did certain brokerage work for  
21 Associated Canadian Holdings Limited, indicate  
22 that 44,225 common shares of Commodore Business  
23 Machines were delivered to the Mercantile Bank  
24 of Canada on May 17th, 1965. The Mercantile  
25 Bank of Canada indicated that they have sold  
26 those 44,225 shares to obtain repayment of  
27 the loan made to them. There is no record of  
28 them selling 22,700 shares which were recently  
29 referred to as being in their possession on  
December 31st, 1964?

1 A. There was not 22,000 because part of  
2 that 22,000 were returned to Associated.

3 112 Q. Or 1, 135 shares which was the stock  
4 dividend issued by Commodore Business Machines.  
5 What happened to the remainder of the shares of  
6 Commodore Business Machines. I understand of  
7 the 22,700 shares -- you have delivered some of  
8 them to Associated Canadian Holdings Limited and  
9 you are holding the remainder. Is that the  
10 answer to my question?

11 MR. POMERANT: He is holding the  
12 remainder today?

13 MR. BAIRD: Yes.

14 THE DEPONENT: No, the Mercantile Bank  
15 had those shares in my account and they are  
16 selling them today and they have sold most of  
17 them for the repayment of the loan of Associated  
18 Canadian Holdings Limited.

19  
20 BY MR. BAIRD:

21 113 Q. You have said that Mercantile Bank  
22 are selling those shares because you personally  
23 guaranteed the loan of Associated Canadian  
24 Holdings?

25 A. Correct and I also hold those shares,  
26 I would like to say again, because there was  
27 no necessity to return them. When this thing  
28 happened, I would like to say again, I felt I  
29 should keep them for the guarantee.

1 MR. POMERANT: That was a sudden switch  
2 in the question and I am afraid Mr. Tramiel  
3 might not understand the full implication of  
4 what he has just said.

5 MR. BAIRD: I think it is as clear  
6 as this complicated situation can be. I want  
7 the question to be understood by Mr. Tramiel.  
8 I expect Mr. Tramiel to give me an answer I  
9 can understand.

10 MR. POMERANT: Yes, well the question  
11 you asked was whether the shares were sold by  
12 the Mercantile Bank because of Mr. Tramiel's  
13 personal guarantee. Whether there is an  
14 implication that the shares were being held by  
15 the Mercantile Bank as a result of Mr. Tramiel's  
16 personal commitment. Without that personal  
17 commitment, the Commodore Shares would never  
18 have been held by the Mercantile Bank so when  
19 Mr. Tramiel said yes, it is true the Bank, the  
20 Mercantile Bank is selling those shares because  
21 of my personal guarantee of Associated Canadian  
22 Holdings Limited, that is to guarantee Associated  
23 Canadian Holdings' loan. That is the under-  
24 standing.

26 MR. BAIRD: That is the understanding  
I got from the answer.

28 MR. POMERANT: I would like to point  
29 out to you he has always said the shares were  
there because of Associated Canadian Holdings'

1 loan.

2 MR. BAIRD: No, he hasn't. There was  
3 a gap where there was no money owing to Associated  
4 Canadian Holdings Limited.

5 MR. POMERANT: Yes.

6

7 BY MR. BAIRD:

8 114 Q. There was a period of at least seventeen  
9 days during that period of time Mr. Tramiel said  
10 he left the shares with the bank; that they were  
11 not as security for any personal loans he had  
12 outstanding with the bank but they were just  
13 lying there and Associated Canadian Holdings  
14 Limited at no time, or Mr. Tramiel never asked  
15 for the return of the shares?

16 A. Yes, Mr. Baird, I would like to say  
17 again, I did not live at that time in Toronto.  
18 I lived in New York and I am not sure if I was  
19 here when this was repaid.

20 115 Q. This is in April 1965. You were  
21 living, as I understand from your previous  
22 examination, you were living in Ontario?

23 A. Yes, I was.

24 25 MR. POMERANT: To come back to my  
query, there was a period you say of seventeen  
26 days, when those shares were sort of in limbo.  
27 They were not securing any loans, then there  
28 was another loan by Associated Canadian Holdings  
29 and then there was a guarantee by Mr. Tramiel.

30

1 Commodore Business Machines shares continued to  
2 remain with the Mercantile Bank. Your thesis  
3 is they don't guarantee Associated Canadian  
4 Holdings' loan but they also remained to pay the  
5 account to guarantee Mr. Tramiel's personal  
6 commitment. I say there is no foundation for  
7 that whatever.

9 BY MR. BAIRD:

10 116 Q. What is the true statement then, Mr.  
11 Tramiel. What is the true state of the situation?

12 A. When I have guaranteed this new loan,  
13 I left the shares there for guaranteeing my  
14 guarantee.

15 MR. BAIRD: This is what Mr. Tramiel  
16 has just said, Mr. Ponterant, that he left  
17 those shares as additional security.

18 MR. POMERANTZ: But the shares were  
19 already there.

20 MR. BAIRD: But he left them there.

THE DEponent: The shares were left

1 there, I would like to say again. We had no  
2 need for the shares at that particular time and  
3 I afterwards felt, and even the bank advised me  
4 they could not release the shares to me because  
5 they were part of the guarantee, my personal  
6 guarantee. I could not answer you at the present  
7 time if I had to cover the personal guarantee  
8 because no one was dreaming at the time that  
9 the shares would drop to \$1.50.

10 MR. POMERANT: I wonder if I could  
11 ask this question. First, what was the amount  
12 of the loan?

13 THE DEPONENT: \$175,000.00, or was it  
14 \$200,000.00?

15 MR. BAIRD: \$200,000.00.

16 MR. POMERANT: What did the bank require  
17 in order to give you that loan?

18 THE DEPONENT: The bank required  
19 shares we have delivered to them plus personal  
20 guarantees from the four people.

21 MR. POMERANT: What was done ---  
22 perhaps you could correct me if I am wrong --- but  
23 what was done was that the shares that had always  
24 remained in the Mercantile Bank continued to  
25 remain there to cover the loan.

26 THE DEPONENT: Not all of them, whatever  
27 was there.

28 MR. POMERANT: In addition to that,  
29 you gave your personal guarantee.

THE DEPONENT: Right.

1 BY MR. BAIRD:

2 117 Q. Mr. Lando has stated that on December  
3 31st, 1964 13,000 shares of Commodore Business  
4 Machines which were the property of Associated  
5 Canadian Holdings were situate with the Eastern  
6 and Chartered Trust Company. Can you tell me  
7 why those shares were there?

8 A. No, I couldn't.

9 118 Q. Did you have any dealings with Eastern  
10 and Chartered Trust on behalf of Associated  
11 Canadian Holdings?

12 A. Not with them personally. I could  
13 have signed a loan but I did not arrange a loan  
14 personally with them.

15 119 Q. Was there a loan with Eastern and  
16 Chartered Trust Company?

17 A. I don't recollect. I think it was  
18 but I am not sure.

19 120 Q. The books of account of Associated  
20 Canadian Holdings do not indicate there was any  
21 loan made to Associated Canadian Holdings  
22 Limited by Eastern and Chartered Trust Company?

23 A. I don't recollect one.

24 MR. POMERANT: Mr. Baird, I wonder if  
25 at this stage, Mr. Tramiel could, for the purpose  
26 of clarifying this question and all the questions  
27 that are coming with regard to dealings with  
28 Associated Canadian Holdings, could give to  
29 you a factual resume of what Associated Canadian

30

1 Holdings was and why it is that he, although  
2 he is President of the company, is not in a  
3 position to give you all the information that  
4 you apparently want.

5 MR. BAIRD: That is quite satisfactory  
6 to me, Mr. Pomerant.

7 MR. POMERANT: What I would like you  
8 to do at this stage is to discuss how the  
9 company came to be formed, what happened in the  
10 company, and who had the control of the company,  
11 and why whoever had the control of the company  
12 did, in fact, have the control of the company.

13 THE DEPONENT: Commodore Business  
14 Machines was formed in 1953. Around that time  
15 we started to borrow money from companies where  
16 Mr. Morgan was an officer, or President and  
17 at that time Mr. Morgan has asked all the  
18 Commodore shares to be turned over to him as  
19 additional security. I did not check to see  
20 if this was done for his company or for him  
21 personally. In 1962 Commodore Business Machines  
22 went public. The shares were still with Mr.  
23 Morgan. That means our shares---

24  
25 BY MR. BAIRD:

26 121 Q. When you refer to "our" who are you  
27 referring to?

28 A. My own, my wife's, my mother's, my  
29 step-father's, Mr. Kapp's and his wife's, but

1 I know for a fact that all of them were in  
2 Mr. Morgan's possession. Mr. Morgan held those  
3 shares. In 1963, I believe Mr. Kapp started to  
4 ask that he would like to get those shares  
5 because now most of the money, or quite a bit  
6 of money is repaid to Atlantic, and it is a  
7 public company. Mr. Morgan at that time has  
8 recommended to me forcefully that he would like  
9 to open up a company called Associated Canadian  
10 Holdings Limited where all of us should pool  
11 shares together to be able to continue the  
12 control of Commodore Business Machines. I had  
13 quite a bit of opposition to me because Mr. Kapp  
14 and Mr. Morgan did not get along too well together,  
15 to convince Mr. Kapp to do so. After showing  
16 him and proving it to him if we don't have Mr.  
17 Morgan on the side of Commodore, we won't be  
18 able to keep the two successfully because of  
19 the financial backing. I convinced Mr. Kapp  
20 to put the shares into Associated and in short,  
21 we -- at that time, it did not make any  
22 difference to us if it was in trust with Mr.  
23 Morgan. It was now in Associated. We still  
24 didn't have control of the company.

25  
26 Q. Mr. Tramiel, you said you did not  
27 have control of Associated Canadian Holdings  
28 Limited but it appears you were the majority  
29 shareholder, or one of the majority shareholders  
30 of Associated Canadian Holdings Limited?

1 A. The reason I am saying about the  
2 control because I told you before I advised Mr.  
3 Kapp to put the shares in because we still  
4 depended on financing of Mr. Morgan and his  
5 companies, not physical control by shares but  
6 there is much more than physical control by  
7 shares. From that time on, when Associated  
8 Canadian Holdings Limited came into existence  
9 at that time, I lived in New York and Mr.  
10 Morgan was wheeling and dealing in Associated  
11 affairs where you can check with the majority  
12 of brokers around the City where Associated  
13 had accounts which I am sure I didn't sign the  
14 accounts. I was the President and the dealings  
15 were mostly with Mr. Morgan personally. The  
16 last days before the company went to bankruptcy,  
17 there was a dealing with Annat & Associates.

MR. POMERANTZ: That was after Atlantic--

**THE DEPOSITOR:** After Atlantic went---

BY MR. BAIRD:

123 Q. What was the nature of this transaction, Mr. Tramiel?

25 A. We owed a certain amount of money, I  
believe, to Annat & Company. To be very honest  
26 about it, I would like to say again, what I  
27 should do? Do you have a copy of this letter?  
28 There was a letter written from Annat & Company  
29 to Mr. Morgan telling him how the transaction

1 was made. I was the President. Mr. Morgan was  
2 not an officer at all but all correspondence went  
3 to him. I am not sure exactly of the transaction.  
4 That is the reason I would like to show the copy  
5 of the letter.

6 MR. POMERANT: I am not sure if we  
7 have it.

THE DEponent: Yes, we have.

16 THE DEPONENT: And then Mr. Morgan  
17 started coming up and started to say how he  
18 would like to improve Associated Canadian Holdings  
19 position and start to put in some additional  
20 shares and borrow money against Commodore shares  
21 and buy some other things, and also, I would  
22 like to say again, to try to help him out in  
23 a situation which he is in, to use Commodore,  
24 or use Associated. I just believed this man.  
25 I would like to say again, I didn't say anything  
26 about that particular loan because nothing was  
27 done. The first transaction what happened on  
28 this deal was Mr. Morgan, he has sold to the  
company some shares of a company called Dale

1 Estates which, number 2, there was a deal  
2 between Five Wheels and Mr. Morgan and the  
3 gentleman called Mr. Mannes where I have arrived  
4 to Toronto. I was called to a meeting as an  
5 officer of Commodore Business Machines to buy  
6 100,000 shares of Five Wheels at \$7.50 a share  
7 for an exchange of 100,000 shares of Commodore  
8 Business Machines to the tune of \$22,000.00 in  
9 cash. This particular proposal came to the  
10 Board of Directors of Commodore. The Commodore  
11 directors did not approve the transaction and  
12 Mr. Morgan at that particular time, has done  
13 the transaction through Associated Canadian  
14 Holdings Limited. The dealings, and everybody  
15 involved knew and they didn't deal with me but  
16 they dealt with Mr. Morgan. Now, Mr. Morgan,  
17 I would like to say again, borrowed \$22,000.00  
18 from one of the companies and plus he used  
19 100,000 shares of Commodore Business Machines  
20 shares which were assets of Associated Canadian  
21 Holdings.

22 The second deal was where I was in  
23 Europe, the third deal, or whatever number it  
24 was. I was in Europe and Mr. Kapp called me.  
25 He is being told he has to sign a document to  
26 buy a debenture from Arcan Holdings for  
27 \$350,000.00 which everybody knew at that part-  
28 icular time, that this company is almost in  
29 bankruptcy but Mr. Morgan had privately, what  
30

1 he told us, had a majority interest in this  
2 company and he made this deal too. Those are  
3 the deals as far as I remember.

BY MR. BAIRD:

124 Q. Those are the deals made by Mr. Morgan?

8                   A.           All the deals were made by Mr. Morgan  
9  
10                  but those are the specific big deals I can  
11                  tell you where good shares were used and money  
12                  borrowed against them to get into some of  
13                  those particular dealings.  Like Five Wheels,  
14                  after three or five months, the stock went down  
15                  to \$5.70 from \$7.50.  I am not sure of the  
exact amount.

MR. POMERANTZ: Why did you allow this?

18 THE DEPONENT: For the same reason I  
19 have asked Mr. Kapp to put the shares into the  
20 company because I felt that whatever Mr. Morgan  
21 does could not be wrong. He is not doing it to  
22 hurt me. He must have a good reason why he is  
23 doing it. First of all, I did not feel I had  
24 a right to tell him yes or no. Now, you could  
25 ask also the people who were handling the  
26 affairs of the company if they received  
27 instructions from me or who they received  
28 instructions from. Definitely they were not  
from me.

1 BY MR. BAIRD:  
2

3 125 Q. Mr. Lando told me he has received  
4 instructions from you?

5 A. Well, I would like to say again this  
6 is between Mr. Lando and yourself if he can  
7 show you what instruction it was. One  
8 instruction I have given Mr. Lando, I am  
9 sorry. After I came back here in April, or  
10 in March, at that particular time I did start  
11 to get much more active in the company, much  
12 more active. One instruction I have given  
13 him is that I would like to see, after seeing  
14 this company being so rich, that he should  
15 issue or declare a dividend on the preferred  
16 stock at 5%. Those instructions I have given  
17 him and he didn't take it. He had to go down  
18 and check with Mr. Morgan first.

19 126 Q. Mr. Tramiel, I understand a dividend  
20 was paid on February 28th, 1965 of \$39,450.00.  
21 Is that the dividend you are referring to?

22 A. Yes.

23 127 Q. Did you receive the dividend on your  
24 shares?

25 A. Yes. Those are the instructions I  
26 have given him. The other instructions I  
27 have given personally, I would like to say  
28 again, which came from Morgan is to invest  
29 \$100,000.00 in L.B.H. Management Corporation.

30 MR. POMERANTZ: In other words, you

1 gave those instructions on Mr. Morgan's  
2 instructions.

3 THE DEPONENT: Yes. Instructions  
4 came most from this gentleman. I give you  
5 the preliminary story as far as Associated  
6 Canadian Holdings is concerned. Shall I  
7 continue?

MR. POMERANTZ: Yes.

9 THE DEponent: When the company started  
10 to require or needed funds, I have asked Mr.  
11 Morgan, "Why don't you repay, or call the  
12 debentures on Arcan." He would say it is  
13 all right where it is. Always some kind of  
14 excuse. At that time, some people from New  
15 York or Boston which are part owners of a  
16 company which had dealings with Arcan called  
17 Bon Ami, or something like this, were trying  
18 to buy 60% interest which Arcan held.

BY MR. BARTH:

128 Q. Who in fact held them? Was it owned by Associated Canadian Holdings Limited or Aurora?

25 A. Not Aurora, Arcan. The debenture,  
26 the Arcan debenture.

129 Q. Owned by Associated Canadian Holdings  
27  
28 Limited?

20 A. Yes.

30 130 Q. Arcan Owned---

1 A. Bon Ami.

2 131 Q. What percentage of the shares of

3 Bon Ami were owned by Arcan?

4 A. I was called to that meeting as

5 representative of Associated at the request

6 of Mr. Morgan and at that time, there was

7 60% interest owned by Arcan and 40% by the

8 other people and they were willing to make a

9 deal to buy this. We were advised by our

10 Attorney it is all right because of the first

11 floating charge or whatever it is to call our

12 debenture and take over all the assets. Mr.

13 Morgan at that time, I would like to say again,

14 he would lose too much on his personal shares.

15 We couldn't do that.

16 132 Q. What do you mean his personal shares?

17 A. He owned shares, the controlling shares

18 of Arcan.

19 133 Q. But you previously stated --- do the

20 minute books of Arcan show Mr. Morgan as being

21 a majority owner of the shares of Arcan?

22 A. I have never seen the books of Arcan.

23 134 Q. Please continue?

24 A. At that time, I would like to say

25 again, I have recommended at the meeting to

26 everybody and my solicitors of Associated to

27 call our debenture and sell the 60% to Bon Ami.

28 Mr. Morgan has overruled it and left it like

29 a little patsy because this proved another point,

30

1 I would like to say again, how much say I  
2 had in associated. This is to bring you up  
3 a little bit up to date. When I was reading  
4 this article in the paper of the \$80,000.00,  
5 there was never any approval of the officers of  
6 the company to make this loan. I was told that  
7 the loan was made.

8 135 Q. Mr. Tramiel, I understand the minute  
9 books of Associated Canadian Holdings Limited  
10 showed the signing officers to be any two of  
11 Messrs. Tramiel, Kapp, or Wagner. Is that  
12 correct?

13 A. Yes. To make a loan you don't have  
14 to sign anything to make a loan.

15 136 Q. The transaction you previously referred  
16 to before involves the sale of shares of  
17 Associated Canadian Holdings to Mr. Schulman.

18 A. This particular problem came up when  
19 we did not have those shares.

20 137 Q. And the \$80,000.00 note was given  
21 as partial consideration for the sale of the  
22 shares?

23 A. I would like to say as far as it  
24 was told to me, I knew this was a loan. This  
25 is the reason it was paying interest. It  
26 was a loan. I did not know at any time the  
27 actual story in the company, what was going on.

28 138 Q. Mr. Tramiel, I would like to show you  
29 Exhibit 4 which I believe is a letter dated  
30

August 14th, 1963 to Associated Canadian Holdings,  
care of Commodore Business Machines Canada  
Limited, 680 King Street West, Toronto, attention  
Mr. Jack Traniel from the Bank of Marathon and  
Metropolitan Bank of Miami. This letter  
indicates Messrs. Solomon & Singer were report-  
ing on two transactions?

A. This is a transaction which I was trying to buy for Associated which never was bought.

139 Q. But you did act for Associated Canadian Holdings Limited on certain matters?

A. Very small. This letter I didn't remember at all.

----EXHIBIT NO. 4: Letter dated August 14th, 1963 to  
Associated Canadian Holdings Limited  
re Bank of Marathon and Metropolitan  
Bank of Miami.

BY MR. BAIRD:

140 Q. Mr. Tramiel, I would like to show you copy of letter dated November 20th, 1964 which will be Exhibit Number 5 to Barrett, Goodfellow & Company, 330 Bay Street, Toronto 1, Attention R.A. Goodfellow.

"Dear Sir, this is your authority  
to transfer 40,000 shares of Commodore  
Business Machines (Canada) Limited to  
the account of C. Powell Morgan.

Yours truly, Associated Canadian Holdings  
Limited per, " a line, and "H. Wagman,  
director."

On the bottom, dated December 17th, 1964, there is a notation to H. Wagman, "This is your authority to write same letter as above to B.G. & Company for another 40,000." And the initials appear to be J.T. and M.K. Did you initial this letter?

A. Those initials, yes.

141 Q. Please explain the purpose for the original letter and the purpose of the notation at the bottom of the letter?

A. I don't recall the letter.

---EXHIBIT NO. 5: Copy letter dated November 20th, 1964 to Barrett, Goodfellow & Company from Associated Canadian Holdings.

BY MR. BAIRD.

142 Q. Did you authorize---

A. There was many authorizations.

143 Q. ----Mr. Morgan to receive 40,000 shares of Commodore Business Machines which were the property of Associated Canadian Holdings Limited?

A. There was many a discussion, I would like to say again, which shares went into Mr. Morgan's account, but, I would like to say again, this writing is not mine.

1 MR. POMERANT: This isn't your writing?

2 THE DEPONENT: No.

3 MR. POMERANT: That is the notation  
4 at the foot of Exhibit 5 which is dated  
5 December 17th, 1964 to H. Wagner,

6 "This is your authority to write the  
7 same letter as above."

8 THE DEPONENT: I don't know whose  
9 writing this is.

10  
11 BY MR. BAIRD:

12 144 Q. It looks like B.G. & Company -- I  
13 understand that is Barrett, Goodfellow & Company?

14 MR. POMERANT: "For another 40,000 shares,"  
15 is not in Mr. Tremiel's handwriting.

16 THE DEPONENT: I would like to say the  
17 shares transferred to Mr. Powell's account. I  
18 can't give you the details.

19  
20 BY MR. BAIRD:

21 145 Q. There is no record in the books of  
22 40,000 shares of Commodore Business Machines  
23 being paid for by Mr. Morgan?

24 MR. POMERANT: Is there a record of  
25 them being transferred to Mr. Morgan?

26 MR. BAIRD: The books---

27 THE DEPONENT: As far as the Marathon  
28 Bank.

29 MR. POMERANT: You are referring  
30

1 to Exhibit 4 when you were saying on behalf of  
2 Associated Canadian Holdings you had entered  
3 into some negotiations in regard to this  
4 letter?

5 THE DEPONENT: Before I went into it  
6 at all, I had discussed with Mr. Morgan advising  
7 him and telling him if such a bank is available  
8 because at times, he mentioned if I come across  
9 anything like this to let him know. At times,  
10 he mentioned it, I should see if I could buy  
11 it for Associated and this is what I have done.  
12 As far as my own initiative, there was nothing  
13 done in that company without the approval of  
14 Mr. Morgan.

15  
16 BY MR. BAIRD:

17 146 Q. Mr. Tramiel, the books of account  
18 indicate 40,000 shares of Commodore Business  
19 Machines which belonged to Associated Canadian  
20 Holdings Limited were transferred to C. Powell  
21 Morgan. When was this done?

22 MR. POMERANT: Can you tell when the  
23 transfer took place?

25  
26 BY MR. BAIRD:

27 147 Q. The letter is dated December 20th, 1964,  
28 the books record it December 30th, 1964?

29 A. There was a number of times Mr.  
30 Morgan had shares transferred but this

1 particular transaction, I don't know.

2 148 Q. The books of account also indicate  
3 40,000 shares of Commodore Business Machines  
4 which were the property of Associated Canadian  
5 Holdings were transferred to Mr. H. Wagman.  
6 Can you tell me why this was done?  
7

## A. How many?

A. How many?

149 Q. 40,000.

9  
10 A. No, I couldn't.  
11  
12 150 Q. The books of account indicate on  
13 December 30th, 1964 H. Wagman purchased 23,500  
14 shares of Commodore Business Machines (Canada)  
15 Limited from Associated Canadian Holdings  
16 Limited at \$3.50 a share for a total purchase  
price of \$99,750.00. Did you authorize this  
transaction?

17 A. No.

151 Q. Did you agree to it?

12 Q. And the price per share was \$3.50.

24 I have been advised the market price of  
25 Commodore Business Machines at that time was  
26 approximately \$10.00 a share?

28 A. Did he pay for those shares? Did  
Mr. Wagman pay for those shares?

153 Q. Yes. Why was he authorized to buy

1 the shares at \$3.50 when the market price was  
2 approximately \$10.00 a share?

3 A. I would like to say only what you  
4 have shown me here but reading this option,  
5 I know nothing about this option. I can only  
6 answer you on this particular contract you are  
7 showing me.

8 MR. POMERANT: You are again presuming,  
9 Mr. Tramiel would have the answers as an active  
10 President of this company. I point out to  
11 you again Mr. Tramiel was anything but that;  
12 that the company was one of those Morgan  
13 creatures; that is operated that way that  
14 Wagman was the conduit pipe between Morgan and  
15 the transactions and that where Mr. Tramiel  
16 can give you an answer, and there is something  
17 he can recall, he does so, and where he can't  
18 give the answer, it is only because he was the  
19 President in this company in name only.

20 MR. BAIRD: Mr. Pomerant, I don't  
21 intend to argue the matter with you but it  
22 appears to me, particularly from this memo  
23 dated December 17th, 1964 that Mr. Wagman  
24 was not authorized to transfer to his own  
25 account any shares of Commodore Business Machines  
26 without the consent of Mr. Tramiel.

27 MR. POMERANT: The consent of Mr.  
28 Tramiel in this, as in any other matter, was  
29 not----

1 MR. BAIRD: Let us have Mr. Tramiel  
2 answer this.

3 THE DEPONENT: This letter you are  
4 holding in your hand was not to Mr. Wagman,  
5 it was to Mr. Goodfellow.

6

7 BY MR. BAIRD:

8 154 Q. There is a notation which you have  
9 initialed, "This is your authority to write the  
10 same letter as above for another 40,000  
11 shares."

12 A. As I said before, I don't recall this  
13 particular writing. The initials are mine.  
14 The writing is not. I would not know exactly  
15 what this is.

16 MR. POMERANT: It is obvious that the  
17 notation at the foot of Exhibit 4, that  
18 certainly the handwriting on the substitution  
19 of that note is not Mr. Tramiel's.

20 MR. BAIRD: I am not prepared to  
21 argue the point, Mr. Pomerant. I think it is  
22 an unnecessary waste of time but I point out  
23 to you Mr. Tramiel initialed this transaction.

24 MR. POMERANT: If they are his initials.

25 MR. BAIRD: He has admitted they are.

26 MR. POMERANT: He has admitted they  
27 appear to be his initials.

1 BY MR. BAIRD:

2 155 Q. Are they, or are they not?

3 A. They look like my initials.

4 156 Q. Are they your initials. Did you sign  
5 this?

6 A. I couldn't answer you.

7 157 Q. Do you deny signing it?

8 A. They look like mine and it might be  
9 my initials. I would not like to say I signed  
10 it.

11 158 Q. Did you sign it?

12 A. I would like to say this would be  
13 my initials.

14 159 Q. Answer my question, did you sign it,  
15 or did you not sign it?

16 A. I don't recall signing this particular  
17 letter.

18

19 ----Off the record discussion.

20

21 BY MR. BAIRD:

22 160 Q. Mr. Tramiel, the books of account  
23 indicate on the 30th December, 1964 36,577  
24 shares of Commodore Business Machines were  
25 sold to C.P. Morgan at \$3.50 a share for a  
26 total purchase price of \$128,019.50. Did  
27 you authorize this transaction?

28 A. I was not actively engaged in this

29

30

1 company and I do not know of the day by day  
2 transactions.

3 161 Q. Please answer the questions. Did you  
4 authorize this transaction?

5 A. I don't recall about authorizing this  
6 transaction.

7 162 Q. Did you consent to the transaction?

8 MR. POMERANT: If he does not recall  
9 the transaction----

10 MR. BAIRD: He can say if he consented  
11 to it or not. I think that is a fair question.

13 BY MR. BAIRD:

14 163 Q. Did you consent to this transaction?  
15 Did you consent to Mr. Morgan purchasing those  
16 shares from the company?

17 MR. POMERANT: Again, I think----

18 MR. BAIRD: Please, Mr. Pomerant.

19 MR. POMERANT: Just a moment, Mr. Baird.

20 MR. BAIRD: Let Mr. Tramiel answer  
21 my question. You can comment after Mr. Tramiel  
22 has had an opportunity of answering my question.

23 MR. POMERANT: I am quite prepared to  
24 have Mr. Tramiel answer any question he can.  
25 He has finished, over a fifteen minute period,  
26 telling you he had no consent, or lack of  
27 consent in the transaction.

28 MR. BAIRD: I want to ask about  
29 specifics transactions and ask Mr. Tramiel

1 to say specifically whether he consented to  
2 them or did not consent to them. I am not  
3 relating to a general statement. I want to  
4 proceed and deal with specific transactions.  
5

6 THE DEPONENT: I was not aware of it  
7 from day to day. I was not in a position to  
8 contradict, or say yes or no to this transaction  
9 and they were not asked of me. That is all  
10 I can answer you.  
11

12 BY MR. BAIRD:

13 164 Q. Were you aware -- did you consent to  
14 this particular transaction? I am referring to  
15 the sale of Commodore Business Machines to  
16 Mr. Morgan?

17 A. I do not recall the consent to this  
18 particular transaction.  
19

20 165 Q. The books of account of December 30th,  
21 1964, 50,000 shares of Commodore Business  
22 Machines were sold to M. Morgan at \$3.00 for  
23 a total purchase price of \$52,500.00. Did you  
24 authorize or consent to this sale of shares?  
25

26 A. I don't recall this either.  
27

28 166 Q. Did you authorize or consent to this  
29 sale?  
30

A. I don't recall authorizing this sale.  
31

32 167 Q. Any comment you wish to make?  
33

A. I would like to know if there was  
34 any sold to me for \$3.50.  
35

1 MR. POMERANT: Just a moment, Mr.  
2 Tramiel. Mr. Baird goes all the way. The  
3 question is put to you authorized, did you  
4 consent, did you know. That is the three  
5 phases of the question with each transaction  
6 you are dealing with. I became concerned  
7 because by saying no, he did not authorize it,  
8 no, he did not consent, no he was not aware,  
9 there is a presumption in that question that  
10 he (a) ought or ought not to have consented,  
11 (b) ought or ought not to have authorized it  
12 and (c), ought or ought not to have been aware  
13 of it. Mr. Tramiel's position is he was not  
14 in any position where he ought or ought not to  
15 have authorized, ought or ought not to have  
16 consented, or ought or ought not to have been  
17 aware of it. He has stated to you, as far as  
18 he is concerned, it was a Morgan creature and  
19 at that time, as all the Morgan creatures were  
20 treated, in retrospect.

21 MR. BAIRD: We are not here to judge  
22 Mr. Tramiel. We are here to find out what he  
23 knows about the affairs of Associated Canadian  
24 Holdings Limited and this is why I am asking  
25 about specific transactions. Any interpretation,  
26 or judgment on the remarks of Mr. Tramiel will  
27 be made somewhere else.

MR. POMERANTZ: Yes.

THE DEponent: Can you answer me this

1 question, or as you said before? Were any  
2 of those shares sold to me? The same way  
3 you mentioned about Mildred Morgan.  
4

5 BY MR. BAIRD:

6 168 Q. Mr. Lando has mentioned all the  
7 original shareholders shown in the minute  
8 books who transferred shares----  
9

A. The question I have asked----

10 169 Q. I am giving you an answer. It has  
11 been testified that 215,600 shares of Commodore  
12 Business Machines were sold by Associated  
13 Canadian Holdings Limited to the shareholders  
14 on or before December 30th, 1964 and that all  
15 the shareholders exercised the option to  
16 purchase shares at \$3.50 a share. Mr. Lando  
17 has also stated under oath that certain of the  
18 shareholders have not paid for those shares but  
19 they exercised their option and there is a  
20 balance due and owing by the shareholders to the  
21 company for the purchase of the shares?  
22

A. That means I received the shares?

23 170 Q. No, I didn't say that, Mr. Tramiel,  
24 I said Mr. Lando stated that every shareholder  
25 exercised the option?

26 A. Exercising it means they received the  
27 shares.  
28

29 MR. POMERANTZ: In an attempt to clarify  
30 your position in a moment, we will ask a few

1                   questions. I wonder if I can ask Mr. Tramiel  
2                   three questions to clarify the situation.  
3                   Number 1, were you aware of any option that  
4                   you had prior to December 30th, 1964 to purchase  
5                   Commodore Business Machine shares from  
6                   Associated Canadian Holding Limited at \$3.50  
7                   per share?

8                   THE DEPONENT: No.

9                   MR. POMERANT: At that time, the shares  
10                  were selling at approximately \$10.00. Is that  
11                  correct? We have heard that from Mr. Baird.  
12                  If the shares had been selling at \$10.00 and you had  
13                  this option to purchase the shares, would you have  
14                  purchased shares?

15                  THE DEPONENT: Sure I would.

16                  MR. POMERANT: Did you receive any  
17                  shares as a result of exercising an option to  
18                  purchase shares in the manner we have been  
19                  discussing.

20                  THE DEPONENT: No.

22                  BY MR. BAIRD:

23                  171           Q.           Mr. Tramiel, Mr. Lando has stated all  
24                  the shareholders, as a result of exercising their  
25                  option to repurchase shares obtained credit for  
26                  having received 5% stock dividend issued by  
27                  Commodore Business Machines (Canada) Limited.

28                  Did you receive the 5% stock dividend?

29                  A.           I did.

1 172 Q. Did you receive the 5% stock dividend  
2 on-----  
3 A. Where is the \$3.50 which is to do  
4 with the 5%?  
5 173 Q. Did you receive the 5% stock dividend  
6 on 37, 357 shares of Commodore Business Machines?  
7 A. You mean from Commodore?  
8 174 Q. Yes?  
9 A. I received some shares but the exact  
10 amount I could not answer you at the present  
11 time. I would have to check it. I received  
12 some shares.  
13 175 Q. Would your wife, Helen Tramiel, receive  
14 5% stock dividends from Commodore Business  
15 Machines on the 11,700 shares?  
16 A. I believe she received some too.  
17 176 Q. What right did you have to receive 5%  
18 stock dividend on those shares when those  
19 shares were the property owned by Associated  
20 Canadian Holdings Limited according to your  
21 testimony. You stated you did not buy them  
22 from Associated Canadian Holdings Limited, buy  
23 them back from Associated Canadian Holdings?  
24 A. I did not receive them from Associated  
25 Canadian Holdings Limited.  
26 177 Q. You received it from Commodore Business  
27 Machines?  
28 A. Correct.  
29 178 Q. But those shares were the assets,  
30

1 the property of Associated Canadian Holdings  
2 Limited. You transferred them to Associated  
3 Canadian Holdings Limited when the company was  
4 incorporated?

5 A. I have just mentioned to you at the  
6 present time I have some shares which I have  
7 received from the 5% dividend. I did not  
8 calculate how much, and what it is.

9 179 Q. Why didn't you turn those shares over  
10 to Associated Canadian Holdings Limited?

11 A. I didn't.

12 180 Q. Why?

13 A. Mr. Lando knew I had them.

14 181 Q. Why didn't you turn them over?

15 A. For no particular reason. For no  
16 particular reason whatsoever.

17 182 Q. Why didn't your wife turn them over?

18 A. I couldn't answer for my wife but  
19 I believe it is for the same reason.

20 183 Q. You haven't given any reason?

21 A. No particular reason. If you can  
22 prove Associated owes those shares at the  
23 present time, I will turn them over today.

24 184 Q. You were the President of Associated  
25 Canadian Holdings Limited. You are the one  
26 to tell me who owns the shares?

27 A. I cannot tell you because I said I  
28 was not running the day by day affairs of  
29 Associated Canadian Holdings.

1 185 Q. I am talking about your personal  
2 holdings of Associated Canadian Holdings?

3 A. If I can't trust myself, that is  
4 pretty bad.

5 186 Q. I am asking did you receive---

6 A. I said I did.

7 1 MR. POMERANT: Mr. Tramiel, I want  
8 you to wait until the question is asked and  
9 give Mr. Baird the opportunity of asking the  
10 whole question and then when he is finished,  
11 it helps.

12  
13 BY MR. BAIRD:

14 187 Q. Did you receive 2,467 and 9/20ths  
15 common shares of Commodore Business Machines?

16 MR. POMERANT: When, Mr. Baird?

18 BY MR. BAIRD:

19 188 Q. When Commodore Business Machines  
20 delivered the shares pursuant to the declaration  
21 of 5% stock dividend. I believe it was the  
22 end of 1964 or the early part of 1965?

23 A. I have received a certain amount of  
24 shares, the exact amount I don't know but I  
25 know the shares were part of the 5% dividend.  
26 I have owned a certain amount of shares  
27 personally. I did not know exactly -- I  
28 didn't calculate who they belonged to. Mr.  
29 Lando asked me about them. I told him I had  
30

1 a certain amount of shares.

2 189 Q. Mr. Lando has indicated that you were  
3 entitled to keep 1,850 shares of Commodore  
4 Business Machines because you had exercised  
5 your option to purchase those shares from  
6 Associated Canadian Holdings Limited and that  
7 you owed Associated Canadian Holdings Limited  
8 617 and 9/20ths shares of Commodore Business  
9 Machines. Is that correct?

10 A. I don't recall any agreements like this,  
11 I would like to say again, or of any meetings  
12 like this.

13 190 Q. I am not talking of meetings.

14 MR. POMERANT: He said he didn't  
15 recollect.

16  
17 BY MR. BAIRD:

18 191 Q. I am asking if Mr. Lando's statement  
19 is correct?

20 A. I don't recall it.

21 192 Q. Is it correct?

22 A. I don't recall it.

23 193 Q. Mr. Lando has told us that Helen  
24 Tramiel received 390 shares of Commodore Business  
25 Machines. Of this amount she was entitled to  
26 170 shares because she had exercised her option  
27 to purchase shares of Commodore Business Machines  
28 owned by Associated Canadian Holdings Limited  
29 and that she then owed Associated Canadian

30

1 Holdings Limited 220 shares of Commodore Business  
2 Machines. Is that true, Mr. Tramiel?

3 A. I don't know that my wife has exercised  
4 any options.

5 MR. POMERANT: I wonder if I could  
6 ask two questions that might be of assistance,  
7 Mr. Baird? Is there anything in the books to  
8 reflect this transfer to indicate the receipt  
9 by Mr. Tramiel or his wife of his shares on  
10 the basis you suggested. (2) Is there any  
11 agreement in writing to indicate what Mr.  
12 Lando is saying is true. It may be of  
13 assistance to Mr. Tramiel.

14 MR. BAIRD: We have not seen any  
15 agreement in writing. The only indication we  
16 have that there is an agreement in writing is  
17 a financial statement of Wagman, Fruitman, and  
18 Lando. Secondly, Mr. Lando's letter to Mr.  
19 Tramiel dated April 14th, 1965. Mr. Lando has  
20 told us in his letter of April 14th 1965 that  
21 in calculating the shares of Commodore Business  
22 Machines owing by Mr. Tramiel to Associated  
23 Canadian Holdings Limited, he has given Mr.  
24 Tramiel credit for having exercised the option  
25 and has allowed Mr. Tramiel to retain 1,850  
26 shares of Commodore Business Machines issued  
27 pursuant to the stock dividend.

28 MR. POMERANT: The letter, of course,  
29 doesn't say anything about the stock.  
30

1 MR. BAIRD: I am telling you Mr.  
2 Lando has told us under oath that this is the  
3 basis of his calculations.

4 MR. POMERANT: All I am pointing out  
5 is that is not stated in the letter. That may  
6 be stated to you by Mr. Lando under oath but  
7 that is not in the letter.

8 THE DEPONENT: This is supposed to be  
9 the remainder of the shares held in the  
10 Mercantile Bank.

12 BY MR. BAIRD:

13 194 Q. Do you wish us to show you how it is  
14 calculated? You are saying the letter does  
15 not show how the calculations are determined.  
16 That is correct, but we can show you how the  
17 amount was arrived at and show you that it  
18 includes 1,850 shares which would be due to  
19 Mr. Tramiel if he exercised the stock option.

20 MR. POMERANT: My only point about this  
21 letter is it doesn't talk about an option agree-  
22 ment. It doesn't confirm or deny an option  
23 agreement and that is my only point. That is  
24 Exhibit 4 I am referring to.

25 MR. BAIRD: I am telling you Mr. Lando  
26 has told us under oath there was such an  
27 agreement.

28 MR. POMERANT: I am not quarreling with

1 what Mr. Lando has told you under oath. I  
2 am pointing out that the letter you use to  
3 suggest to Mr. Tramiel was aware of such an  
4 agreement----

5 MR. BAIRD: I am not using that  
6 letter. I will show him that letter and I  
7 was offering to show you Mr. Lando's calculation  
8 of the shares owing by Mr. Tramiel to A.C.H.  
9 because Mr. Tramiel got credit for being  
10 entitled to 1,850 shares of Commodore Business  
11 Machines.

12 MR. POMERANT: Again all I can point  
13 out to you is the letter says no such thing.

14 MR. BAIRD: Mr. Pomerant, please listen  
15 to me for a moment. Mr. Tramiel has told us  
16 there was 22,700 shares pledged with Mercantile  
17 Bank. There was a 5% stock dividend issued by  
18 Commodore Business Machines and there is 1,135  
19 shares issued and they were also held by the  
20 Mercantile Bank so when Mr. Tramiel----

21 MR. POMERANT: \$1,135 shares.

22 MR. BAIRD: Was the 5% stock dividend.  
23 We don't know where they were sent, to the  
24 Mercantile Bank, or Mr. Tramiel personally.  
25 Mr. Tramiel delivered 14,750 shares to  
26 Associated Canadian Holdings Limited which  
27 left a balance of 9,085 shares owing by him  
28 to Associated Canadian Holdings Limited. Then,  
29 Mr. Lando has stated Mr. Tramiel, Mrs. Tramiel,  
30

1 R. Silberman, and R. Silberman received 3,692  
2 and 9/20ths from Commodore Business Machines  
3 pursuant to the dividend because of the shares  
4 of Commodore Business Machines which were  
5 registered in their name, whether or not they  
6 were the owner of the shares, they were actually  
7 registered in their names. Mr. Lando has stated  
8 that they were entitled to receive 2,625 shares  
9 of Commodore Business Machines as a result of  
10 having exercised their stock option, and this  
11 left a balance of 1,062 and 9/20ths shares owing  
12 by Mr. Tramiel, Mrs. Tramiel, B. Silberman, and  
13 R. Silberman to Associated Canadian Holdings.  
14 Limited. You add the 1,062 and 9/20ths to the  
15 balance held by the Mercantile Bank of 9,085  
16 and you get a figure of 10,147 and 9/20ths  
17 shares which is the figure set out in the  
18 letter that Mr. Lando wrote to Mr. Tramiel.

19 MR. POMERANT: My point is, Mr. Baird----

20 MR. BAIRD: The effect of Mr. Tramiel's  
21 answer is if he did not exercise the stock  
22 option, there are additional shares that he  
23 holds of Commodore Business Machines belonging  
24 to Associated Canadian Holdings Limited.

25 MR. POMERANT: Yes.

26 MR. BAIRD: Is that correct?

27 MR. POMERANT: No.

28 MR. BAIRD: Which is the correct state  
29 of affairs? That is why we are here for  
30

1 examination today.

2 MR. POMERANT: I am quite prepared to  
3 deal with that. Up until this examination, Mr.  
4 Baird, every other examination has always  
5 followed along the basis if there is no  
6 agreement, we can look with a certain amount  
7 of spuriousness on what it is that has been  
8 said or done. Mr. Tramiel has pointed out to  
9 you that he was not aware of any option agree-  
10 ment. He did not apparently exercise any  
11 option to purchase any Commodore Business Machines sh  
12 shares at \$3.50; that this may be a very inter-  
13 esting analysis by Mr. Lando and it may dove-  
14 tail very neatly with the figure he brings up.  
15 That is his explanation of why Mr. Tramiel is  
16 owing this amount of shares to Associated  
17 Canadian Holdings.

18

19 BY MR. BAIRD:

20 195 Q. Is what your counsel says true, Mr.  
21 Tramiel?

22 A. Yes.

23 MR. BAIRD: Using this method, Mr.  
24 Tramiel ratified your statement and he is  
25 the one sworn under oath and this saves me  
26 asking him some questions to elicit some  
27 information. I do not challenge your veracity,  
28 Mr. Pomerant. That should be put on the record  
29 to show the purpose of the question.

30

1 MR. POMERANT: If there is no  
2 confirmation of the stock option agreement,  
3 and there is a figure which Mr. Lando has said  
4 is owing to Associated Canadian Holdings, you  
5 can also take into account Mr. Tramiel's  
6 explanation of the balance of the 10,147 and  
7 9/20ths shares which he said were in great  
8 part due to the Mercantile Bank having them.  
9 We have an entirely different picture. All I  
10 am pointing out is this. If there are any  
11 stock option agreements (a) they were not known  
12 to Mr. Tramiel (b) in light of the fact he was  
13 away from the country for some period of time,  
14 he was not aware of the day by day transactions  
15 that occurred and as a result what you are  
16 asking him to do with regard to those figures  
17 that are being presented to him is to ask him  
18 firstly to accept or not to accept a figure the  
19 premise of which he does not understand because  
20 he is not aware of any stock options. He can't  
21 give you those answers based on Mr. Lando says  
22 this and says that. Mr. Lando says the total  
23 figure is such and such and he has a perfect  
24 way of arriving at 10,147 and nine-twentieths  
25 shares but Mr. Tramiel is not aware of a  
26 stock option agreement so what does that do to  
27 the figures?

28 MR. BAIRD: I understand your  
29 position, Mr. Pomerant, and---

1 BY MR. BAIRD:

2 196 Q. Do you confirm what your counsel says,  
3 Mr. Tramiel?

4 A. Yes. I would like to ask you a  
5 question again. If I did not receive the  
6 shares on my option, or I did not pay for  
7 them, how could I receive 5% dividend.

8 197 Q. I have been advised by Mr. Lando that  
9 certain shares were registered in your name,  
10 in the name of your wife, and Mr. and Mrs.  
11 Silberman and they were in the name of  
12 Associated Canadian Holdings Limited.

13 A. I agree but the way you are saying  
14 this was given to me by way of an option.  
15 Did I pay for the option? Did I take up  
16 the option?

17 198 Q. That is correct.

18 A. I would like to say again I did not  
19 pick up any option. I did not pay for any  
20 option.

21 199 Q. Were 5% shares on the stock dividend  
22 issued by Commodore Business Machines issued  
23 to yourself, your wife, and Mr. and Mrs.  
24 Silberman pledge also with the Mercantile  
25 Bank as security for the loan?

26 A. No.

27 200 Q. Where are they at the present time?

28 A. At home.

29 201 Q. You hold them?

1                   A.           Yes.

2                   202        Q.           Your wife holds them?

3                   A.           Yes.

4                   203        Q.           And Mr. and Mrs. Silberman hold them?

5                   A.           This I could not answer you. I can

6                   tell what me and my wife holds.

7                   204        Q.           Mr. Tramiel, the books of account of

8                   Associated Canadian Holdings Limited indicate

9                   that \$182,000.00 was received by Associated

10                   Canadian Holdings Limited from Barrett, Goodfellow

11                   & Company on February 19th, 1965 as partial

12                   payment for the shares purchased by the share-

13                   holder from the company. I am referring to the

14                   shares of Commodore Business Machines. Can you

15                   tell me why this payment was received and on

16                   whose behalf the payment was made?

17                   A.           No.

18                   205        Q.           Did you authorize Barrett, Goodfellow

19                   to pay Associated Canadian Holdings \$182,000.00?

20                   A.           That is from Associated Canadian

21                   Holdings Limited?

22                   206        Q.           To pay to Associated \$182,000.00 to

23                   Associated Canadian Holdings. This is shown

24                   on the books of Associated Canadian Holdings as

25                   a receipt?

26                   A.           I don't recall it.

27                   207        Q.           It is a credit against the balance

28                   of purchase price?

29                   A.           Do I have to authorize Goodfellow to

30

1 put into Associated?

2 208 Q. Yes?

3 A. I was not doing authorizing of any  
4 kind.

5 209 Q. From our examination of the books of  
6 the company, it indicates this was a payment  
7 by one or more of the shareholders of the  
8 company as part of the purchase price of the  
9 Commodore Business Machines shares. I wanted  
10 to know whether you were one of the shareholders  
11 involved in making this payment to the company?

12 A. No, I didn't give any personal money  
13 to Mr. Goodfellow whatever.

14 210 Q. Please answer the question directly.

15 Did you authorize Mr. Goodfellow to pay \$182,000.00  
16 to Associated Canadian Holdings Limited or was  
17 this payment made on your behalf or any part of  
18 it, made on your behalf?

19 A. I can answer you as far as any payment  
20 made on my behalf. There was none made on my  
21 behalf because of what I authorized. As far  
22 as authorizing Goodfellow to pay, I do not  
23 recall personally authorizing Goodfellow to  
24 pay anything.

25 211 Q. Do you know who authorized, or why  
26 the payment was made?

27 A. No, I only know Mr. Morgan was dealing  
28 with Mr. Goodfellow most of the time.

29 30 MR. POMERANT: The second part was

1 do you know why the payment was made, Mr. Tramiel?

2 THE DEPONENT: I don't.

3  
4 BY MR. BAIRD:

5 212 Q. Mr. Tramiel, the books of account of  
6 Associated Canadian Holdings Limited indicate  
7 that \$24,000.00 was received from C.P. Morgan  
8 on May 4th, 1965. This receipt was also credited  
9 against the balance of the purchase price of  
10 the shares of Commodore Business Machines.

11 Were you aware this payment was made?

12 A. No, I was not aware.

13 213 Q. Did you have any discussion with Mr.  
14 Morgan concerning the payment?

15 A. No, I did not discuss with Mr. Morgan  
16 this particular deal.

17 214 Q. Mr. Tramiel, the books of account  
18 indicate that on June 22nd, 1965 Associated  
19 Canadian Holdings Limited took over the balance  
20 owing by you personally to Barrett Goodfellow  
21 & Company being \$30,832.00?

22 A. Yes.

23 215 Q. Are you familiar with this transaction?

24 A. Yes.

25 216 Q. Why was it done?

26 A. Mr. Goodfellow spoke to me on that  
27 particular day and he said by transferring this  
28 amount of money, we will be able to clean up  
29 the Associated Canadian Account, or something

1 of this nature. I couldn't care less because  
2 I lost it anyway.

3 217 Q. Do you remember you owed Goodfellow  
4 & Company \$30,882.00?

5 A. Against securities.

6 218 Q. What securities?

7 A. You would have to look up the list. I  
8 don't know at the present time.

9 219 Q. Who owned those?

10 A. I didn't.

11 220 Q. Were they the property of Associated  
12 Canadian Holdings Limited?

13 A. No.

14 221 Q. Then, we have been advised by  
15 Goodfellow & Company that they sold your  
16 securities plus other assets of Associated  
17 Canadian Holdings Limited to reduce, or to pay  
18 off entirely, this indebtedness of \$30,882.00.  
19 Is this correct?

20 A. What he did, I could not answer you.

21 222 Q. Did you authorize the sale of assets  
22 of Associated Canadian Holdings Limited in  
23 payment of your personal loan?

24 A. No, I have authorized to sell my  
25 assets to Associated.

26 223 Q. Why did you authorize the account to  
27 be transferred from your name into the name of  
28 Associated Canadian Holdings?

29 A. I could not answer you this at the  
30

1 present time. I will have to find out that.  
2 I only know this was at the time this whole  
3 fiasco came around and the shares were sold  
4 left and right and I was asked if I would  
5 transfer those to Associated so that the  
6 accounts could be straightened out. What he  
7 meant, I don't know. I said go ahead and do  
8 it.

9 224 Q. Did Mr. Morgan authorize this transfer?

10 A. No, this was after. After this Mr.  
11 Morgan -- this was done after June 14th, not  
12 before.

13 225 Q. That is correct.

14 A. Whatever was paid off my account,  
15 I would like to say again, I will stand by it.

16 226 Q. Mr. Tramiel, the Clarkson Company  
17 Limited have prepared a handwritten statement  
18 from statements provided them by Barrett,  
19 Goodfellow Company showing the state of the  
20 account as at September 30th, 1965. For the  
21 purpose of the record, this statement indicates  
22 the balance of the account transferred was  
23 \$30,467.10, interest was charged on June 25th  
24 of \$256.25, and on June 28th \$159.18 being  
25 balance of \$30,882.54. Subsequently, the  
26 following securities were sold which were  
27 securities registered in your name and not  
28 assets of Associated Canadian Holdings Limited.  
29 Shares of Analogue Controls, shares of  
30

12 A. This is the price they were sold for?  
13 227 Q. Apparently so.  
14 A. I would say yes.

16 ---EXHIBIT NO. 6: Statement in handwriting prepared by  
17 Clarkson Company showing state of  
account as at September 30th, 1965.

19 BY MR. BARTH:

20 228 Q. Mr. Lando has advised us December 31st  
21 1964, there were shares belonging to Associated  
22 Canadian Holdings Limited in the possession of  
23 British Mortgage and Trust Company 42,725  
24 shares. British Mortgage and Trust have  
25 indicated to us that they held 42,725 shares of  
26 Commodore Business Machines as security for  
27 personal loans made by them to Carmen G. King,  
28 Douglas Annat, C.P. Morgan, Manfred Kapp,  
29 Harry Wagman, and William Walton. Are you

familiar with this?

3 A. No, some of the names were -- this  
4 is not correct. I am not familiar with the  
5 holding exactly how the details are. No,  
6 Mr. King and Mr. Annat don't have loans any  
more.

229 Q. Originally they were pledged to  
8 British Mortgage and Trust as security for  
9 this particular loan?

10 A. I wouldn't know. The transaction was  
11 not made with me.

12 MR. POMERANT: Had you anything to  
13 do with this transaction?

THE DEPONENT: No, nothing.

15 MR. POMERANT: Did you authorize it?

16 THE DEPONENT: No, I had nothing to  
17 do with it.

BY MR. BAIRD:

230 Q. Can you give me any reason why  
21 British Mortgage and Trust Company were holding  
22 42,725 shares of Commodore Business Machines?

24           A.        I cannot give the reason because I  
25                    was not dealing with the day by day business  
26                    as I said before. The only people you can ask  
                  is Mr. Morgan and Mr. Wagman.

231 Q. The British Mortgage/Trust Company  
28  
29 have also indicated to us that they are holding  
30 8,974 shares of Commodore Business Machines

1 as security for personal loan made by them to  
2 you. Are you familiar with this?  
3

4 MR. POMERANT: Is this part of  
5 Associated Canadian Holdings?  
6

7 MR. BAIRD: Yes.  
8

9 BY MR. BAIRD:  
10

11 232 Q. Those shares are shown on the books  
12 of Associated Canadian Holdings as assets of  
13 Associated Canadian Holdings Limited?  
14

15 A. I have taken over a loan which Mr.  
16 Annat and Mr. King had. This is \$100,000.00  
17 which I have taken over from them.  
18

19 233 Q. They were released and you took over  
20 the loan?  
21

22 A. Right.  
23

24 234 Q. Those shares are pledge as an  
25 additional security for that loan?  
26

27 A. I did not say what they were. I  
28 know I took over their loan and their position.  
29

30 235 Q. I understand Mr. King and Mr. Annat  
each loaned \$50,000.00?  
31

32 A. That is correct. That is to cover  
33 both their loans.  
34

35 236 Q. Why did you take over the loan,  
36 Mr. Tramiel?  
37

38 A. Because I have faith in Commodore  
39 Business Machines.  
40

41 237 Q. We don't understand this, Mr. Tramiel.  
42

1 Why would you assume the loan just because you  
2 had faith in Commodore Business Machines?

3 A. Mr. King, Mr. Annat, I believe  
4 resigned from Commodore Business Machines as  
5 director and Mr. King was still on and I want  
6 to have some equity in Commodore Business Machines  
7 and I asked if they were willing to sell that  
8 security and they told me yes, and I took over  
9 their position.

10 238 Q. So you took over their position and  
11 in consideration for that, they agreed to  
12 transfer to you the security which they had  
13 pledged with the British Mortgage and Trust  
14 Company?

15 A. Correct. I took over their position  
16 what they had with British Mortgage.

17 239 Q. Can you tell me why those shares would  
18 have shown on the books of Associated Canadian  
19 Holdings Limited as assets of Associated Canadian  
20 Holdings Limited?

21 A. At the present time I could not tell  
22 you.

23 240 Q. Because they appear, from our infor-  
24 mation, they were pledged to British Mortgage  
25 and Trust company prior to the incorporation  
26 of Associated Canadian Holdings Limited?

27 A. I could not answer you this question.

28 MR. BAIRD: We will have to adjourn  
29 this examination.

1

2

----Examination adjourned until November 17th 1965.

3

4

5

6

7

8

*Jean Pert*

9

Chartered Shorthand Reporter

*Peter W. Mchugh*

SPECIAL EXAMINER

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ROYAL COMMISSION

ON  
ATLANTIC ACCEPTANCE CORPORATION LIMITED

EXHIBIT No. ....

PER.....

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